

ENTERED

June 21, 2023

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

BUDDY MCDONALD,	§	CIVIL ACTION No
Plaintiff,	§	4:23-cv-00126
	§	
	§	
vs.	§	JUDGE CHARLES ESKRIDGE
	§	
	§	
ENERMECH	§	
MECHANICAL	§	
SERVICES INC &	§	
VALARIS PLC,	§	
Defendants.	§	

**ORDER ADOPTING
MEMORANDUM AND RECOMMENDATION**

Plaintiff Buddy McDonald brought this maritime personal injury action in state court alleging he was injured while working for Defendant Enermech Mechanical Services aboard the *Valaris DPS-5*, a vessel allegedly owned by Defendant Valaris PLC. Dkt 1-1 at ¶ 4.3. Plaintiff brings claims under the Jones Act and under the general maritime law. Dkt 1-1 at ¶¶ 4.1–4.8. Enermech filed a notice of removal on January 12, 2023. Dkt 1. Plaintiff subsequently moved to remand the case, claiming that it was non-removable under the Jones Act. Dkt 13.

Pending is a Memorandum and Recommendation by Magistrate Judge Christina A. Bryan dated May 30, 2023, on the motion to remand. Dkt 20. She recommends that the motion be denied because Defendants met their burden to establish the existence of federal subject matter jurisdiction over Plaintiff's general maritime claims for unseaworthiness and failure to pay maintenance and cure, pursuant to the Outer Continental Shelf Lands Act, 43

USC § 1349(b)(1). Dkt 20 at 7–9. She also recommends that Plaintiff's Jones Act claims be severed and remanded to state court under 28 USC § 1441(c)(2). Dkt 20 at 9–12.

The district court reviews *de novo* those conclusions of a magistrate judge to which a party has specifically objected. See FRCP 72(b)(3) & 28 USC § 636(b)(1)(C); see also *United States v Wilson*, 864 F2d 1219, 1221 (5th Cir 1989, *per curiam*). The district court may accept any other portions to which there's no objection if satisfied that no clear error appears on the face of the record. See *Guillory v PPG Industries Inc*, 434 F3d 303, 308 (5th Cir 2005), citing *Douglass v United Services Automobile Association*, 79 F3d 1415, 1430 (5th Cir 1996, *en banc*); see also FRCP 72(b) advisory committee note (1983).


None of the parties filed objections. No clear error otherwise appears upon review and consideration of the Memorandum and Recommendation, the record, and the applicable law.

The Memorandum and Recommendation of the Magistrate Judge is ADOPTED as the Memorandum and Order of this Court. Dkt 20.

Plaintiff's Motion to Remand is DENIED. Dkt 13. Plaintiff's Jones Act claim is SEVERED from this cause and REMANDED to the 157th Judicial District Court of Harris County, Texas. All other relief requested in Plaintiff's Motion to Remand is DENIED.

SO ORDERED.

Signed on June 20, 2023, at Houston, Texas.


Hon. Charles Eskridge
United States District Judge